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Kennecott Cleanup Impresses EPA Official

Copper Giant Must Sign Pact Or Be Put on Superfund List

By Mike Correll
THE SALT LAKE TRIBUNE

After seeing firsthand what Kennecott has done so far to remedy environmental damage around its Oquirrh Mountain copper-mining operation, William Yellowtail was impressed.

Nonetheless, the new U.S. Environmental Protection Agency regional administrator for Utah was not about to capitulate to Kennecott's efforts to stay off the Superfund list.

The company can sign a consent agreement — guaranteeing to do the cleanup the way EPA wants and setting aside money to make sure the work gets done — or its properties go on the Superfund list, Yellowtail said.

No consent agreement, no staying off the list.

"The public deserves solid assurances that the environment and public health and safety are protected. It's EPA's obligation to guarantee that," he said in a meeting after a morning tour. "Kennecott wants to do the cleanup voluntarily, but that grants no assurances."

Yellowtail made a whirlwind visit Thursday to the Salt Lake Valley. He visited Kennecott with members of Utah's congressional delegation and state officials, all of whom support the company's desire to stay off the Superfund list of hazardous-waste sites eligible for federal cleanup assistance.

tance.

Kennecott objects that the designation will slow down its cleanup efforts, which already have cost more than \$85 million. It will make the rest of the work more expensive and will put an undesirable stigma on the company.

He and other EPA officials, including Hazardous Waste Management Division Director Robert Duprey, then met with Salt Lake County officials and officials from several cities before visiting potential and existing Superfund sites in Murray and Midvale.

Yellowtail still has hope that EPA and Kennecott can reach an agreement that satisfies both sides. He said EPA Director Carol Browner has given Kennecott an opportunity to come back to the negotiation table with a consent agreement acceptable to the agency.

"I hope Kennecott will deliver on Carol Browner's offer," he said, adding that an important part of any agreement will focus on cleanup plans for a polluted aquifer below the Salt Lake Valley's west side. That cleanup alone could cost anywhere from \$100 million to \$800 million, Duprey said. Part of Yellowtail's goal in visiting the Salt Lake Valley was to build support for provisions of a Superfund reform package currently before Congress.

One aim of those reforms is to involve communities more in the process. In doing that, cleanup approaches could be tailored to meet the aspirations of local governments concerned about how once-tainted lands could be used after the work is done. To that end, he met with Murray City

officials to discuss an old smelter site near 5300 S. State that, along with the Kennecott properties, was nominated for Superfund status in January.

Murray Mayor Lynn Pett and colleagues Jack DeLann and Craig Hall stressed the need for a quick cleanup so that the city's strong commercial tax base will not be jeopardized.

They expressed a desire to be involved actively in the development of a cleanup plan, which preferably could be initiated before it became necessary to finalize the Superfund designation, and pledged to cooperate with EPA officials.

"We want to get involved and expedite things," Pett said, asking for a meeting soon with EPA officials to talk about specific details of formulating a plan of action. "We can come over easily [from Denver]," Yellowtail responded.

Duprey outlined the status of other Superfund projects later in a meeting with Salt Lake County commissioners and officials from several valley cities.

Much of that discussion centered on the Sharon Steel tailings in Midvale. EPA is proceeding with a plan to cap the tailings in place, but has given the state more time to come up with an alternate disposal site.

EPA has projected capping will cost close to \$52 million. Off-site disposal undoubtedly will cost more. If the state and Midvale want the tailings moved, Duprey said they will have to pay all extra expenses.

"Our general counsel has said we aren't legally allowed to fund more if we found our plan for the site provided adequate

seek abortions because of rape or incest is relatively small — about five a year, according to clinic administrator Alissa Porter.

In late December, the U.S. Department of Health and Human Services notified the states that Congress had changed the conditions under which Medicaid funds could be used to pay for abortions. Since 1977, the Hyde Amendment has allowed use of Medicaid funds only to save the life of the mother.

But in October 1993, Congress liberalized the amendment to allow coverage in cases of rape and incest. HHS gave states until today to develop Medicaid plans that conformed to the changes. But some states have argued

rape cases.

Rod Betit, director of Utah's Department of Health, announced in January that his department will not comply because Utah law does not permit use of Medicaid funds for abortion in case of rape or incest. That position has not changed, according to Kurt Matthis, assistant director of the Utah Division of Health Care Financing, which runs the Medicaid program.

"The department's position is just to continue negotiating with the [federal government]," Matthis said. "That will be a lengthy process, of course, and there may be a new bill in Congress which clarifies the Hyde

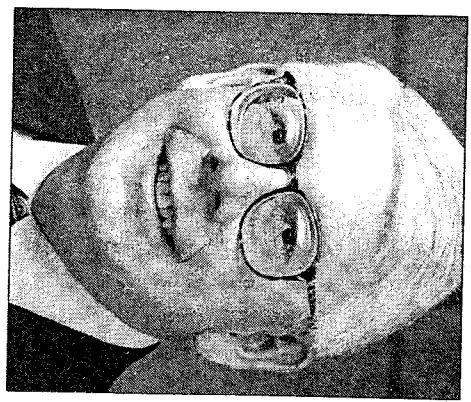
much whether such abortions should be covered as who should make that decision.

"The issue is not so much abortion as much as it is mandates," he said. "They required us to spend more money for abortions which were outlawed by our state law."

Utah lawmakers could have changed the Medicaid abortion law, but did not address the issue during the recently ended 1994 session.

HHS maintains the rape and incest coverage is not optional, a position shared by Gartner's organization, which has twice sued Utah: first over a 1991 law that banned elective abortions and required spousal notification, a suit the state lost, and then a suit the

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Regional administrator for EPA

health and safety protections," he said. Just how much more the state might have to come up with should be known in the next few months. Bids will be accepted soon from companies interested in capping or moving the tailings.

tion.

That law was upheld by U.S. District Judge Dee Benson, who ruled plaintiffs must pay the state's court costs. The center has not yet indicated whether it will appeal.

According to Gartner, 31 state Medicaid programs cover abortions only if the woman's life is threatened; four cover them to save the woman's life and in cases of rape and incest; two cover abortions in all those circumstances plus severe fetal anomaly; and 13 cover all medically necessary abortions, which according to HHS now includes pregnancies resulting from rape and incest. She said the center already has

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N.Y. Agency May Sue Utah Over Noncompliance on Abortion Funding

By Anne Wilson
THE SALT LAKE TRIBUNE

Utah's refusal to use Medicaid funds for abortions in cases of rape or incest may land the state in court.

Eve C. Gartner, senior staff attorney for the Center for Reproductive Law and Policy in New York City, said the center may sue Utah as well as other noncompliant states.

"Most likely we will [sue]. We're looking into it right now," Gartner said. "Obviously we're concerned because we represent the Utah Women's Clinic, that these women are not getting the Medicaid coverage they deserve."

The clinic in Salt Lake City per-